

Social Security Administration

§ 405.301

medical or psychological expert through the Medical and Vocational Expert System before making a decision. At all times, the Federal reviewing official retains the authority to make the decision as to whether you are disabled under our rules.

§ 405.225 Notice of the Federal reviewing official's decision.

We will mail a written notice of the Federal reviewing official's decision to you at your last known address. We will inform you of your right to a hearing before an administrative law judge.

§ 405.230 Effect of the Federal reviewing official's decision.

The Federal reviewing official's decision is binding unless—

(a) You request a hearing before an administrative law judge under § 405.310 of this part within 60 days of the date you receive notice of the Federal reviewing official's decision and a decision is made by the administrative law judge,

(b) The expedited appeals process is used, or

(c) We revise the Federal reviewing official's decision under subpart G of this part.

§ 405.240 Sunset of this subpart.

(a) If you filed a request for review by a Federal reviewing official and we transferred your claim to the Office of the Federal Reviewing Official on or before March 23, 2008, the Federal reviewing official will review and issue a decision on your claim.

(b) If you have received an initial determination under subpart B of this part, we will process any request for additional administrative review not described in paragraph (a) of this section as either a request for reconsideration by the State agency or a request for hearing before an administrative law judge if your State uses the testing procedures under §§ 404.906 and 416.1406 of this chapter. In any hearing before an administrative law judge on your claim, and in any further review of your claim, we will follow the procedures in this part.

(c) This subpart will no longer be effective the day after a Federal reviewing official issues a decision on the last

of the claims accepted for review under paragraph (a) of this section.

(d) If compelling evidence shows that the Federal reviewing official process is efficient, effective, and sustainable given available Agency resources, the Commissioner may reinstate the Federal reviewing official process by publishing a notice of proposed rule-making and final rule in the FEDERAL REGISTER.

[73 FR 2415, Jan. 15, 2008; 73 FR 10381, Feb. 27, 2008]

Subpart D—Administrative Law Judge Hearing

§ 405.301 Hearing before an administrative law judge—general.

(a) This subpart explains what to do if you are dissatisfied with a decision by a Federal reviewing official, a reconsidered determination you received as a result of § 405.240 of this part, or an initial determination subject to a hearing by an administrative law judge under the procedures in this part as a result of § 404.906(b)(4) or § 416.1406(b)(4) of this chapter. In it, we describe how you may ask for a hearing before an administrative law judge, and what procedures we will follow when you ask for a hearing.

(b) The Commissioner will appoint an administrative law judge to conduct the hearing. If circumstances warrant after making the appointment (for example, if the administrative law judge becomes unavailable), the Commissioner may assign your claim to another administrative law judge.

(c) You may examine the evidence used in making the decision or determination under review, submit evidence, appear at the hearing, and present and question witnesses. The administrative law judge may ask you questions and will issue a decision based on the hearing record. If you waive your right to appear at the hearing, the administrative law judge will make a decision based on the evidence that is in the file, any new evidence that is timely submitted, and any evidence that the administrative law judge obtains.

[71 FR 16446, Mar. 31, 2006, as amended at 73 FR 2415, Jan. 15, 2008]